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Attorneys for Defendant

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

AMERICAN SMALL BUSINESS)	No. C 08-0829 MHP
LEAGUE,)	
)	
Plaintiff,)	
)	
v.)	ANSWER
UNITED STATES SMALL BUSINESS)	
ADMINISTRATION)	
)	
Defendant.)	

Defendant hereby submits its Answer to Plaintiff's Complaint for Injunctive Relief.

1. The allegations in Paragraph One consist of Plaintiff's characterization of this action, to which no responsive pleading is required. To the extent a responsive pleading is required, Defendant denies the allegations therein.

2. The allegations in Paragraph Two consist of Plaintiff's allegations regarding jurisdiction and venue, to which no responsive pleading is required. To the extent a responsive pleading is required, Defendant denies that the Court has personal jurisdiction over Defendant. Defendant admits that the Court has subject-matter jurisdiction, and that venue is proper in this district.

3. Defendant lacks sufficient information to admit or deny the allegations in Paragraph Three. To the extent a response is required, Defendant denies the allegations therein.

1 4. The allegations in Paragraph Four consist of Plaintiff's legal assertions and/or
2 statements of historical fact to which no response is required. To the extent a response is required,
3 Defendant avers that 5 U.S.C. § 552(f), the Small Business Act, and Public Law 85-836 are
4 themselves the most accurate statements of their contents.

5 5. Defendant admits the allegation in Paragraph Five that it issued a press release dated
6 August 20, 2007. Defendant denies Plaintiff's characterizations of the contents of the press release.

7 6. Defendant admits that on or about September 20, 2007, Plaintiff made a request under
8 the Freedom of Information Act for "documents containing . . . [t]he specific names of firms that
9 were coded as small businesses for FY 2006 and the specific dollar volume of contracts that were
10 awarded to those firms." Defendant denies the remaining allegations in Paragraph Six.

11 7. Defendant admits that on or about October 24, 2007, Defendant denied Plaintiff's
12 request. To the extent the allegations in Paragraph Seven characterize Defendant's response,
13 Defendant denies the allegations therein.

14 8. Defendant admits the allegation in Paragraph Eight that Plaintiff appealed
15 Defendant's decision. To the extent the allegations in Paragraph Eight characterize Defendant's
16 decision, Defendant denies the allegations therein.

17 9. Defendant admits that Defendant issued its final response to Plaintiff's November
18 2007 FOIA appeal by letter dated December 18, 2007. The remaining allegations in Paragraph Nine
19 consist of Plaintiff's characterizations, to which no response is necessary. To the extent a response
20 is required, Defendant denies the allegations therein.

21 10. Defendant denies the allegations in Paragraph Ten.

22 10.¹ Defendant denies the allegations in the second Paragraph Ten.

23 11. Defendant admits the allegation in Paragraph Eleven that Plaintiff has exhausted the
24 available administrative remedies. Defendant denies Plaintiff's characterization of Defendant's
25 decision.

26 12. Defendant denies the allegations in Paragraph Twelve.
27

28 ¹The Complaint contains two paragraphs numbered "10."

AFFIRMATIVE AND/OR OTHER DEFENSES

All allegations not here before specifically admitted, denied, or modified are hereby denied.

For further and separate answer, Defendant alleges as follows:

FIRST DEFENSE

The Complaint fails to state a claim against the Defendant upon which relief can be granted.

SECOND DEFENSE

No acts or omissions by the United States or its employees were the proximate cause of any injury or damages to the Plaintiff.

THIRD DEFENSE

At all times alleged in the complaint, Defendant was acting with good faith, with justification, and pursuant to authority.

WHEREFORE, Defendant prays for relief as follows:

That judgment be entered for Defendant and against Plaintiff, dismissing Plaintiff's Complaint with prejudice; that Plaintiff takes nothing; and that the Court grant such further relief as it deems just and proper under the circumstances.

Dated: March 21, 2008

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

/s/
MELANIE L. PROCTOR
Assistant United States Attorney
Attorneys for Defendant